



## United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,128		03/04/2002	Wolf-Georg Forssmann	P67671US0	9771
136	7590	06/01/2004		EXAMINER	
0.10022		MAN PLLC	WEBER	WEBER, JON P	
400 SEVEN SUITE 600		EET N.W.	ART UNIT	PAPER NUMBER	
WASHING		C 20004	1651	25	
				DATE MAILED: 06/01/200	4

Please find below and/or attached an Office communication concerning this application or proceeding.



## UNITED STATES DEPARTMENT OF COMMERCE

## U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450 Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.				ATTORNEY DOCKET NO.	
				EXAMINER	
			ART UNIT	PAPER	
				20040525	

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

## **Commissioner for Patents**

The amendment filed on 10 May 2004 canceling all claims drawn to the elected invention and presenting only new claims and arguments drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the originally presented claims 8-14 were drawn to a method of making a medicament as clearly identified at page 2 of the Office action of 31 December 2003,

"For the purposes of examination, the claims have been treated as a method of making an antibiotically active preparation comprising natriubiotics as set forth in claim 8 for use in the treatment of bacteria. The only step that can be surmised is the combination of the natriubiotics and a carrier suitable for either pharmaceuticals (claims 8-12) or food (claims 8 and 13-14) to make the preparation.", whereas the instant claims are drawn to several methods of use of the medicament.

Although the instant application was filed under 37 CFR 371, the claims lack unity of invention because the alleged special technical feature, natriubiotics, are not a contribution over the art as shown by Forssmann et al. (CA 2,188,143) as the English language equivalent of WO 95/28952.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Jon P Weber, Ph.D. Primary Examiner

Art Unit: 1651